

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

LANCE DARRELL MARTIN,

Petitioner,

v.

**2:07 CV 63
(Maxwell)**

WARDEN JOE DRIVER,

Respondent.

ORDER

It will be recalled that on August 13, 2007, *pro se* Petitioner Lance Darrell Martin instituted the above-styled civil action by filing an Application for Habeas Corpus pursuant to 28 U.S.C. § 2241.

It will further be recalled that the case was referred to United States Magistrate Judge James E. Seibert in accordance with Rule 83.09 of the Local Rules of Prisoner Litigation Procedure.

By Order To Show Cause entered September 18, 2007, Magistrate Judge Seibert indicated that he had conducted a preliminary review of the file and had determined that summary dismissal was not appropriate at that time. Accordingly, Magistrate Judge Seibert's September 18, 2007, Order directed the Respondent to show cause why the Petitioner's § 2241 Application should not be granted.

The Government's Response To Show Cause Order was filed on December 6, 2007. The Petitioner's Reply to the Government's Response To Show Cause Order was filed on January 7, 2008. Thereafter, on March 20, 2008, the Petitioner filed a Motion For Oral Argument And Appearance To Present Oral Argument.

On July 18, 2008, Magistrate Judge Seibert entered a Report And Recommendation wherein he recommended that the Petitioner's § 2241 Petition be denied and dismissed with prejudice and that the Petitioner's Motion For Oral Argument And Appearance To Present Oral Argument be denied as moot.

In his Report And Recommendation, Magistrate Judge Seibert provided the parties with ten (10) days from the date of said Report And Recommendation in which to file objections thereto and advised the parties that a failure to timely file objections would result in the waiver of their right to appeal from a judgment of this Court based upon said Report And Recommendation.

The Court's review of the docket in the above-styled action has revealed that no objections to Magistrate Judge Seibert's July 18, 2008, Report And Recommendation have been filed by the parties and that this matter is now ripe for review.

Upon consideration of Magistrate Judge Seibert's April 30, 2008, Report and Recommendation, and having received no written objections thereto¹, it is

ORDERED that the Report And Recommendation entered by United States Magistrate Judge James E. Seibert on July 18, 2008, be, and the same is hereby, **ACCEPTED** in whole and this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

ORDERED that the Petitioner's Application for Habeas Corpus Pursuant to 28 U.S.C. § 2241 (Docket No. 1) be, and the same is hereby, **DENIED** and **DISMISSED**,

¹The failure of a party to file an objection to a Report And Recommendation waives the party's right to appeal from a judgment of this Court based thereon and, additionally, relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4th Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

with prejudice. It is further

ORDERED that the Petitioner's Motion For Oral Argument and Appearance to Present Oral Argument (Docket No. 19) be, and the same is hereby, **DENIED as moot.**

It is further

ORDERED that the Clerk of Court shall enter judgment for the Respondent. It is further

ORDERED that, should the Petitioner desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, the Petitioner may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed *in forma pauperis* from the United States Court Of Appeals For The Fourth Circuit.

The Clerk of Court is directed to transmit a copy of this Order to the *pro se* Petitioner and to counsel of record in the above-styled civil action.

ENTER: October 21 , 2008

/S/ Robert E. Maxwell
United States District Judge